

REMARKS

Claims 1 and 3-19 are currently pending in this application. By this amendment, claim 1 has been amended to incorporate subject matter from claim 2. No new matter has been added. Claim 2 is cancelled without disclaimer or prejudice to the recited subject matter. Reconsideration and allowance of this application in view of the foregoing amendments and following remarks are respectfully requested.

Rejections Under 35 USC § 102

Claims 1 and 4-6 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. 5,100,355 to Marcus. Applicants submit that Marcus fails to disclose each and every limitation of claims 1 and 4-6. For example, Marcus fails to disclose a resistive layer which is positioned between the cathode layer and the gate insulating layer as recited in claim 1. Moreover, Marcus fails to disclose emitters which are adhered to the resistive layer as further recited in claim 1. Therefore, Applicants request that the rejection of claim 1 and dependent claims 4-6 be withdrawn for at least these reasons.

Rejections Under 35 USC § 103

Claim 3 was rejected under 35 U.S.C. § 103(a) as being obvious in view of Marcus. Applicants traverse this rejection because Marcus fails to teach or suggest each of the limitations of claim 3. Claim 3, which depends on claim 1, includes a limitation of a resistive layer which is positioned between the cathode layer and the gate insulating layer. Moreover, claim 3, through its dependency on claim 1, includes a limitation of emitters which are adhered to the resistive layer. Because Marcus fails to teach or suggest either of these limitations, Applicants request that the rejection of claim 3 be withdrawn for at least this reason.

Claims 1-5 and 7-19 were rejected under 35 U.S.C. § 103(a) as being obvious over WO 2004/012218 to Lee et al. in view of Marcus. The Office Action states that Lee is prior art to the present application only under 35 U.S.C. § 102(e). As to cancelled claim 2, Applicants submit that the rejection is moot. As to claims 1, 3-5, and 7-19, Applicants submit that Lee is not prior art under any subsection of 35 U.S.C. § 102. The present application claims priority (through PCT/KR03/02851) to foreign priority document KR 10-2003-0002716, filed January 15, 2003. The claim for priority has been perfected by the Patent Office's acknowledged receipt of a certified copy of KR 10-2003-0002716. In contrast, Lee was filed July 30, 2003, after the filing date of the foreign priority application. Thus, Lee is not § 102(e) prior art and a § 103(a) rejection may not be based upon Lee. Therefore, Applicants request that the rejection of claims 1, 3-5 and 7-19 be withdrawn for at least this reason.

In view of the above remarks, it is believed that the claims satisfy the requirements of the patent statutes and are patentable over the cited art. Reconsideration of the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

Date: _____

11/17/08

By _____


Joseph A. Hynds
Attorney for Applicants
Registration No. 34,627
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040